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S E C R E T TUNIS 001137

NOFORN
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STATE FOR NEA A/S WELCH AND L A/S BELLINGER
NEA ALSO FOR CRETZ, NEA/MAG:WILLIAMS, NARDI, PATTERSON,
HAYES
DRL:MCGEENEY, S/WCI:RICCI
DEFENSE FOR DOD/OSD:LIOTTA
JUSTICE FOR DOJ/ODAG:STRANSKY

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TAGS: [PREL](#) [PTER](#) [PHUM](#) [KDRG](#) [TS](#)
SUBJECT: (S) TUNISIAN GUANTANAMO DETAINEES: WHAT NEXT?

REF: A. TUNIS 1110
[1](#)B. STATE 103775
[1](#)C. STATE 91304 AND PREVIOUS
[1](#)D. SECTO 8
[1](#)E. TUNIS 1052
[1](#)F. TUNIS 1007
[1](#)G. TUNIS 992
[1](#)H. TUNIS 973
[1](#)I. TUNIS 193
[1](#)J. TUNIS 042
[1](#)K. 07 TUNIS 1483
[1](#)L. 07 TUNIS 1060
[1](#)M. 07 TUNIS 967
[1](#)N. 07 TUNIS 964

Classified By: Ambassador Robert F. Godec for reasons 1.4 (b) and (d)

Summary

[1](#)1. (S/NF) Over the last two years, GOT officials have said Guantanamo detainees transferred to Tunisia will not be tortured or mistreated. President Ben Ali reiterated this "promise" to the Secretary in September. They have denied reports that one of the detainees transferred in 2007 was mistreated. The Embassy believes, however, the reports are credible. While GOT assurances offer some protection to future transferees, they are likely to face similar treatment. We do not believe further assurances from GOT officials will change this. While obtaining access to the first two transferees may remind some GOT officials of their obligations regarding treatment, we are unlikely to get information we do not already have. If Washington agencies wish to pursue access, we believe a telephone call from the Secretary to President Ben Ali will be necessary. Our conclusion: we are at the end of the road regarding assurances from the GOT. Now we must decide whether to transfer more detainees or seek another course. End Summary.

2006-2007: GOT Assurances

[1](#)2. (S/NF) From late 2006 to mid-2007, the US Government received a variety of assurances from the GOT regarding the transfer of Tunisian detainees at Guantanamo. In November 2006, the Ministers of Justice and Interior offered oral assurances about Tunisia's obligations under the Convention Against Torture and noted to an interagency delegation led by

S/WCI Ambassador Williamson that many of the detainees faced in absentia charges. The Minister of Justice also provided oral assurances about third party access (i.e., the ICRC) to detainees in the Tunisian prison system. In 2007, Minister of State and Presidential Advisor Ben Dhia confirmed these assurances to the Ambassador and subsequently reiterated them in a letter to Deputy Secretary of State Negroponte. The exchanges paved the way for the June 2007 transfer of the first two detainees to GOT custody.

Reports of Mistreatment

¶3. (S/NF) Following the transfer, NGOs alleged that the two detainees, Abdallah Ben Omar (al-Hajji) and Lotfi Ben Sweilagh, had been tortured and mistreated by GOT security forces. As a result of the allegations, the Ambassador demarched Foreign Minister Abdallah, Minister of Interior Belhaj Kacem and Presidential Advisor Ben Dhia regarding GOT assurances. (Note: The GOT declined to facilitate a meeting for the Ambassador with Minister of Justice Tekkari. End note.) All reiterated that Tunisia is a signatory of the Convention Against Torture (CAT) and would respect it. Abdallah and Kacem dismissed the allegations of torture. To our knowledge, there was no GOT investigation into reports of the detainees' mistreatment. Further, the ministers did not indicate that any future transfers will be handled differently to avoid such accusations.

¶4. (S/NF) Ben Omar's lawyer (the source of these NGO reports) later clarified that, while Ben Omar was mistreated (slapped) and threatened (that he and his family members would be raped), he was not "tortured." Post received reports that Ben Omar has been subject to psychological mistreatment, including most recently on September 8 when Emboffs met with his family. Our assessment remains that these claims of mistreatment are credible. According to the same lawyer, who represents both detainees, and his own brother, Ben Sweilagh has not been subject to any mistreatment although he was reportedly held in solitary confinement for weeks after his transfer. Emboffs met with Lagha's brother September 8.

2008: New GOT Assurances

¶5. (S/NF) In February 2008, NEA A/S David Welch met with President Ben Qi and asked for his commitment to accept the Tunisian detainees still in Guantanamo. BQAli responded that the GOT would accept the detainees and do so on the basis of the Tunisian constitution. (NB. The Tunisian constitution offers guarantees on human rights, humane treatment, and respect for international commitments.) On August 30, the Ambassador delivered a new letter from the Deputy Secretary to Ben Dhia. Ben Dhia's written reply consisted of sending a copy of the letter he wrote in 2007 before the return of the two detainees already transferred.

¶6. (S/NF) On September 6, Secretary Rice asked Ben Ali for his personal assurances that the Tunisians transferred from Guantanamo would be treated humanely. Ben Ali:
-- said the detainees have no reason to fear torture in Tunisia,
-- affirmed they are not being tortured, and that there would be no abuse or mistreatment of them,
-- offered to allow US officials to visit the transferees in prison.

¶7. (S/NF) Following the Secretary's visit, the Embassy requested permission to visit the two transferees in Tunisia. MFA officials told the Ambassador September 24 that Ben Ali had not offered to allow US officials to visit the transferees and that it was against Tunisian law for anyone other than the family and lawyers to meet with Tunisian prisoners. A/S Welch asked FM Abdallah on September 27 to raise the question of US access with Ben Ali. Abdallah told the Ambassador October 18 that access would not be allowed

and that Ben Ali had given the Secretary his "promise" there would be no mistreatment. Abdallah said that even a "discreet visit" would be pointless since the purpose of access would be to assuage NGO and public opinion. He said, however, he would raise the question "again" with Ben Ali.

Next Steps

18. (S/NF) In our view, there are two questions before Washington agencies. First, should we continue to press for access to the detainees already in Tunisia? While access may remind some GOT officials of their obligations regarding the detainees, we consider it unlikely that a visit will provide us with information that we have not already obtained from their relatives and lawyer. If Washington wishes to pursue access, we have these options:

-- The Ambassador or NEA A/S Welch could approach FM Abdallah again and ask if he has talked with Ben Ali to confirm whether the President would permit US access to the transferees.

-- If the answer is delayed or access continues to be denied, then the Secretary would need to telephone Ben Ali. We doubt that a letter would result in any change in position.

19. (S/NF) Second, should we accept Tunisian assurances and transfer additional detainees? There are three key points.

-- Over the last two years, the United States has received many GOT assurances that Guantanamo detainees would not be tortured or mistreated and would be treated in accordance with the Tunisian constitution. The most important of these assurances is also the newest, from Ben Ali to the Secretary. We believe these assurances offer some protection to transferred detainees.

-- Despite the early GOT commitments, it is likely that Ben Omar was mistreated. While GOT officials deny the reports, this is clear: in no case has a GOT official acknowledged that if Ben Omar had been threatened or slapped it would have been wrong. Indeed, the most frequent response has been to emphasize that the detainees deserve to be in prison. Given this, and despite Ben Ali's statements, we believe future transferees are likely to face treatment similar to the first two.

-- Finally, we have obtained all we can from the GOT by way of assurances on the treatment of transferees. In recent exchanges, GOT officials are increasingly testy and difficult. The risk of a counterproductive response is growing. We are at the end of the road on Tunisian assurances. Now we must decide whether to transfer more detainees or seek another course.

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<http://www.state.sgov.gov/p/nea/tunis/index.cfm>
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